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DEPARTMENT OF NATIONAL HEALTH AND WELFARE
OTTAWA

REVIEW OF ABORTION LEGISLATION AND EXPERIENCE IN SELECTED COUNTRIES, 1970

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Research and Statistics Directorate

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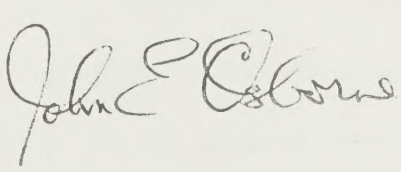
FOREWORD

This report outlines salient features of the legal provisions for abortion in various countries around the world including Canada. The legislation has been selected to illustrate the range of legal indications for abortion at the end of 1970. Included also are related statistical data and other information on the experience of these countries, where available.

A summary table provides a reference by country to the principal features of these statutes. An extensive bibliography is attached.

We acknowledge with thanks the assistance of Dr. Robert H. Lennox, Director of Child and Adult Health, Department of National Health and Welfare, and of various embassies in Ottawa in obtaining materials on abortion.

Doreen Van Toever prepared the report under the supervision of Claire Heggtveit, and general direction of William A. Mennie, Principal Research Officer (Health).



John E. Osborne, Director,
Research and Statistics Directorate.

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REVIEW OF ABORTION LEGISLATION AND EXPERIENCE IN SELECTED COUNTRIES

The purpose of this review is to examine briefly the different types of legal indications for abortion now in effect, the associated statutory conditions, and, where available, statistics on the experience of selected countries. The legislative provisions included in this review have been selected to show the range of indications for abortions as described in the following summary, and the effects of such provisions and related practices, where possible. The review provides a relevant background to place in perspective the Canadian experience resulting from amendments to sections of the Criminal Code which deal with the subject of abortion, in effect since August 26, 1969.

Comparison of the legislative provisions on abortion in countries around the world shows great variation in the nature of the legal indications. Between the two extreme positions of absolute prohibition under penal statute and abortion on request, the current legislation embodies a variety of recognized indications for abortion that include medical, eugenic, humanitarian, medical-social, and purely social-economic. The indications are usually multiple.[1] Some differences also exist among the statutes examined regarding the specific provisions for the certifying authority, approved facilities and procedures, reporting systems, residence requirements and related measures such as family planning services and sterilization.

The countries studied in this review have been grouped for convenience according to geographic area or region, as follows:

Asia: India, Japan

Eastern Europe: Bulgaria, Czechoslovakia, Hungary, Poland, Rumania, U.S.S.R., Yugoslavia.

Western Europe: France, The Netherlands.

Scandinavia: Iceland, Denmark, Sweden, Norway, Finland.

United Kingdom

The United States

Canada

The principal source of information on the legal provisions has been the World Health Organization's International Digest of Health Legislation including Abortion Laws: A survey of current world legislation (Vol. 21, No. 3, dated 27 October 1970). Other references are listed in the select Bibliography.

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1. See Table 1 - Legal Abortion in Selected Countries, Approved Indications, and Other Conditions, 1970.

Summary of Indications for Legal Abortion

The legal indications for abortion may include one or more of the indications described below. Because of varying definitions of "social" and "humanitarian" followed in the individual statutes, there is some overlap between categories (4), (5) and (6) depending upon the primary objective.

(1) Authorized abortion on medical indications to preserve the life of the woman.

(2) Authorized abortion on medical indications to preserve the physical or mental health of the woman, based on serious illness or infirmity at the time of or prior to the operation.

(3) Authorized abortion on eugenic indications, to prevent the birth of a defective infant. Such decisions may be based on the possibility of hereditary defects in the foetus or on the risk of damage to the foetus during pregnancy through disease or injury by toxic agents.

(4) Authorized abortion on humanitarian indications. Included in this category are pregnancies resulting from a criminal offense such as rape or incest, and pregnancy in a minor.

(5) Authorized abortion on other medical-social indications to protect the future health of the woman and her family. This factor takes into account the conditions under which the pregnant woman would have to live after the child's birth. All adverse personal and social circumstances involving risk to the physical or mental health of the woman are considered in relation to the demands of pregnancy and after-care of a child. These may include the family's financial problems, ill health of other family members, the existing burden of child care, or age of the woman above or below specified years.

(6) Authorized abortion on frankly social indications. Social factors may be defined to include the difficult conditions of pregnancy in an unmarried mother, the presence of a number of children in the home, a recent pregnancy or history of frequent pregnancies or disruption of the home.

(7) Authorized abortion on request. In these cases, the decision is a joint one by the woman and her doctor with no criminal liability involved.

Summary of Legal Provisions by Country

Nearly two-thirds of the world's population reside in countries that either prohibit abortion absolutely or permit it only when considered medically necessary to save the life of the woman. These countries include the majority in Asia (except for Japan, Singapore and China) most countries in southern and western Europe, three-fifths of the United States, and with few exceptions the remainder of the countries in the western hemisphere.[2,3]

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2. C. Tietze and S. Lewit, "Abortion", Scientific American, Vol. 220, No. 1, January, 1969, 21-27.
3. World Health Organization, International Digest of Health Legislation, Abortion Laws: A survey of current world legislation, Geneva, Vol. 21, No. 3, 27 October, 1970.

Among the Western European countries that prohibit abortion under any circumstances, are Ireland, Spain, Portugal and Belgium. In France an abortion may occur only as the unintended result of a therapeutic procedure designed to save the life of the mother; such a procedure is understood to be accompanied by a high risk to the foetus. In the Netherlands, abortion is a crime; a doctor who performs an abortion can be held liable, unless he can prove in court that he acted to save the life of the mother. In several other European countries and in thirty-two of the American states, a therapeutic abortion may be permitted in order to save the life of the mother.[4]

The extension of medical indications for abortion from risk to life of the mother to include possible damage to the physical or mental health of the mother has developed in a small group of countries, including Canada and two American states, Alabama and Massachusetts, and in the District of Columbia.

Further extension of medical indications may also include the possibility of defects in the foetus due to genetic factors, disease, or other injury. Additional extended indications for termination of pregnancy for varying medical, eugenic and humanitarian reasons have been in effect in the Scandinavian countries for up to 35 years and Great Britain since 1967. In 1935, Iceland was the first country in the world to introduce abortion on specific medical-social indications, while over the years the other Scandinavian countries have introduced basically similar abortion legislation. Recent (1970) amendments enacted in Denmark and Finland permit abortions for purely social reasons such as pregnancy in a young girl, (under 17 in Finland) pregnancy in an older woman (38 or over in Denmark, 40 or over in Finland) where the mother already has the care of four children, or simply has had four children, or inability to provide adequate child care. In the United Kingdom, medical-social reasons for abortion may take into account the risk of the pregnancy adversely affecting any existing children and the effects of the woman's "actual or foreseeable environment".

The most liberal abortion laws covering approximately one-third of the world's population are found in the countries of Eastern Europe and in Japan where abortion is generally available on the request of the pregnant woman or for broad social indications. For example, the laws in Japan and several Eastern European countries such as Czechoslovakia, Poland and Yugoslavia recognize difficult social and economic circumstances as reasons for abortion. In Bulgaria, more liberal interpretation of existing legislation in 1970[5] has resulted in abortion on request for all unmarried women, and for married women with at least one child. While no official information on China is available it has been reliably reported that abortion is approved as a means of birth control.

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4. United States Department of Labor, Wage and Labor Standards Administration, Women's Bureau, Abortion Laws, Washington, D.C., June, 1970.
5. I.D.H.L., Vol. 21, No. 3, 1970, 483.

Legislation permitting abortion on request, has been in force in the U.S.S.R. since 1955. Three American states, New York, Alaska, and Hawaii enacted similar legislation in 1970. In the State of Washington, a bill to permit abortion on request was submitted to a public referendum in November 1970. Some 54 percent of the votes cast were in favor of the bill, which became the basis of new legislation. However, wherever legislation permitting "abortion on request" has been enacted, certain conditions regulating the procedure, such as time limits, designated facilities, and authorized persons who may operate, are also in force.

Asia

In most of the Asian countries for which information is available, abortion is illegal except to save the mother's life. Among the few nations of Asia with relatively liberal legislation are Japan, which enacted the comprehensive Eugenic Protection Law in 1948 and Singapore, which adopted liberal legislation in 1969. At the time of writing, the parliament of India was debating a reform bill tabled in 1969.

India - early legislation concerning abortion in India dates from 1860, when an exception in the Penal Code permitted abortion only to save the life of the mother. However, as total illegal abortions were estimated as high as five million, chiefly involving married women, the Government of India's Central Family Planning Board set up a commission in 1964 to investigate the whole problem of abortion.[6] The report, which was submitted in 1966, recommended modification of the law regulating abortion.

The Medical Termination of Pregnancy Bill, 1969, based on the Commission recommendations, is now before the Indian Parliament. Proposed indications for abortion include risk to the life or physical or mental health of the woman and the risk of serious defects in the foetus. The accompanying explanatory notes indicate that pregnancy as a result of rape or pregnancy due to the failure of a contraceptive device could be considered to be potentially injurious to the mental health of the pregnant woman. In considering risks to the health of the woman, the notes indicate that consideration should be given to the actual or reasonably foreseeable environment of the applicant.[7]

The Bill would permit authorization of an abortion by one physician up to the 12th week of pregnancy and authorization by the joint decision[8] of two physicians to the end of the 20th week. Abortions would be performed at a government hospital or in "a place for the time being approved for the purpose" by the government.

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6. I.D.H.L., Vol. 21, No. 3, 1970, 466.
7. I.D.H.L., 1970, 467.
8. I.D.H.L., 1970, 448.

Japan - In 1948, Japan enacted the Eugenic Protection Law, which has been interpreted by the medical profession in such a way that abortion is available virtually on demand. This Law replaced a highly restrictive one which was enacted in 1940. "Demographic arguments were foremost in the discussion of the Law, ... but they were secondary to the eugenic and health arguments".[9] The preamble of the legislation states that it is intended to protect the life or health of the mother and to prevent the birth of defective children.[10] Section 14 of the Law lists the specific medical and psychiatric conditions considered to present a risk to health. Additional approved indications include pregnancy as the result of a criminal act. Because of mounting population pressures a 1949 amendment added economic factors detrimental to the mother's health. Apparently it has been the interpretation of economic indications that provides the basis for the current permissive attitudes, in spite of a 1953 directive from the Ministry of Health and Welfare that economic considerations were to apply only to those on welfare or who were medically indigent.

The Eugenic Protection Law provides for the establishment of Eugenic Protection Consultation Offices. The Minister of Health and Welfare appoints "designated physicians" having specified qualifications as staff members and supplies them with the necessary equipment for performing abortions. A 1952 amendment deleted the original requirement that each applicant be reviewed by a screening board; terminations of pregnancy are performed "at the discretion of the operating physician" and presumably this discretion is exercised in interpreting indications and setting time limits, which are not specified. Apparently the majortiy of abortions are performed in the first three months.

The 1948 Law also requires that practical guidance in contraception, by means of contraceptive devices designated by the Minister of Health as suitable, shall be given to those seeking family planning services; guidance may be given only by certain persons including physicians, midwives and public health nurses. The Eugenic Protection Consultation Office is responsible for providing guidance in contraception to women aborted for eugenic or medical reasons. Instruction in family planning is limited to methods approved by the Minister of Health and Welfare for this purpose. The sale of oral contraceptives is apparently restricted to women with gynecological problems;[11] neither the pill nor intra-uterine devices have been legalized for general distribution, and consequently Japanese doctors have little experience in these methods.[12]

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9. J.Y. Takeshita, "Book Review - the Prohibition of Induced Abortion and the Eugenic Protection Law", author T. Ota, in Milbank Memorial Fund Quarterly, XLV, No. 4, October 1967, 467-471.
10. Provisions of the Law may have reflected concern over congenital anomalies, linked to radiation exposure from the atom bomb attacks on Hiroshima and Nagasaki in 1945.
11. John Peel and Malcolm Potts, Textbook on Contraceptive Practice, Cambridge University Press, London, 1969, 33.
12. "Population 70, Family Planning and Social Change", International Planned Parenthood News, No. 202, December, 1970.

A survey conducted by the Ministry of Welfare in 1954 found that only 36 per cent of fertile women had ever used contraceptives or practiced any form of contraception. As a result, physicians and midwives were asked to promote the approved methods of contraception. However, midwives are still not allowed to dispense contraceptives, though it has been estimated that midwives deliver 95 per cent of all babies in Japan.[13]

In 1949, one year after the 1948 Eugenic Protection Law was enacted, the reported abortion rate was 9.1 per 100 live births; live births totalled 2.69 million. By 1957, the reported abortion rate had risen to 71.6 per 100 live births; live births for the same year dropped to 1.56 million.[14] However, the reported abortion rate for 1967 fell to 38.7 per 100 live births.[15] Since the 1952 amendment permitting authorization of an abortion by one doctor only, Japanese researchers have claimed that there has been a considerable under-reporting of abortion, estimated to be as high as 50 to 60 per cent of the real incidence of abortion.[16,17]

Crude live birth rates have declined from an average of 30.2 per 1,000 population in the five year period 1945-49, to 17.3 in 1957, and have remained at this level. The rate for 1969 was 18.3.[18]

Eastern Europe

Therapeutic abortion on medical and social indications has been legal in all of the countries of Eastern Europe since the 1950's. Illegal abortion rates prior to this period were high, in part because of the disruption of law and order experienced throughout Eastern Europe after World War II and in part because of lack of access to effective contraceptive measures. Many abortions were performed for humanitarian reasons, because rape was widespread. The preamble of the Polish Law of 1956 demonstrates the intent of the new legislation, to prescribe "the conditions under which an abortion is allowed in order to protect the health of the woman against the ill effects of abortion done in bad conditions and not by a doctor". The preamble of the Czechoslovakian Law of 1957 reads: "In the interest of extending care for the healthy development of families threatened by injuries, caused when a pregnancy is artificially interrupted, to the health and life of the woman as a result of interventions by unscrupulous persons and elsewhere than in medical establishments, this Law shall regulate the artificial interruption of pregnancy".

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13. T.M. Hunt, "Legalized Abortion in Japan", California Medicine, Vol. 107, No. 4, October 1967, 336.
14. M. Muramatsu, "Effect of induced abortion on the reduction of births in Japan", Milbank Memorial Fund Quarterly, Vol. 38, No. 2, April, 1960, 153-166.
15. The Lancet, February 7th, 1970, 291.
16. I.D.H.L., 1970, 467.
17. M. Muramatsu, Milbank Memorial Fund Quarterly, Vol. 38, No. 2, April, 1960, 153-166.
18. United Nations Statistical Office, Department of Economic and Social Affairs, Demographic Yearbook, 1969, 260.

The current abortion legislation in the Soviet Union was enacted in 1955. Poland, Bulgaria, Hungary and Rumania enacted abortion legislation in 1956, Czechoslovakia in 1957, and Yugoslavia in 1960.

In 1966 Rumania placed some limitations on its previously broad policies, and Bulgaria, in 1967 and 1968, reintroduced more restrictive legislation. In Rumania, the apparent result was a rise in the birth rate to 27.4 per 1,000 population in 1967 compared to 14.3 for 1966.[19] However, it is difficult to assess this increase in birth rates without considering other factors such as a more positive stand taken by the government to enhance the desirability of larger families.

Bulgaria - Bulgaria authorized legal abortion on request in 1956, except where medical contraindications existed. Also, if a woman was known to have been aborted in the previous six months, her application would be refused.

A change in population policy intended to limit abortions and increase the birth rate in Bulgaria occurred in late 1967 and early 1968. Restrictions were introduced into the abortion legislation which was then embodied in the penal code. Under the new provisions, abortion was prohibited in childless women unless medically indicated. A request for abortion from a woman with one or two children required the approval of a special medical board, which would attempt to dissuade her, but would grant her request if the applicant persisted. Other indications for abortion included pregnancy as a result of a criminal offense. An abortion was also permitted on serious social indications.

According to the latest reports, this restrictive trend was short-lived. In its application under certain circumstances, a more liberal interpretation of the same legislation appears to have been introduced in 1970. Abortions are now available on request for all unmarried women, and to married women with at least one child.[20]

Applicants must submit requests for abortion to the local women's health centre. If attempts to dissuade the applicant are unsuccessful, and legal grounds for abortion exist, she is referred to an appropriate hospital establishment for the operation. The time limit for legal abortion for other than medical reasons, is 10 weeks.

Requests for abortion on medical indications must be submitted to a special board attached to the hospital where the applicant is hospitalized. The chairman who is the chief medical officer of the hospital, is assisted by two other members. One is the gynecologist from the women's health centre where the application was filed, and the other is a medical specialist (chosen according to the medical condition under consideration). Consultants, including social workers, may also be called.

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19. United Nations, Statistical Office, Department of Economic and Social Affairs, Demographic Yearbook, 1969. Table 12, Crude live birth rates, 263.
20. I.D.H.L., 1970, 483.

The most recent statistics on abortion from Bulgaria cover the early period from 1957 to 1966. The reported rates of legal abortions per live births rose from 22 per 100 in 1957 to 76 per 100 in 1966. At the same time, the birth rate declined steadily over the same period from 18.4 per 1,000 population in 1957 to a low of 14.4 in 1966, becoming one of the lowest in Eastern Europe.[21] Following the restrictive change in 1967, the birth rate rose to 16.9 in 1969.

Czechoslovakia - In Czechoslovakia specific abortion legislation was first enacted in 1957 to replace the previous controls included in the Penal Law of 1950, under which the legal indications were defined as serious risk to the health of the pregnant woman arising out of her pregnancy or delivery or serious hereditary disease. The 1957 Law was introduced in an attempt to combat the damage to health and life caused by the high number of illegal abortions, estimated to range from 100,000 to 300,000 annually. Legal abortions during the 1950-57 period varied from 2,000 to 7,000 annually.[22]

Under the terms of the 1957 Law, abortion became legal on specified health indications and for a number of other reasons which justified special consideration including social factors. The health indications are contained in a detailed appendix to the Law which has been amended most recently in 1966. Other indications for legal abortion include pregnancy in a woman of advanced age, or with three or more living children, death or disability of the husband, disruption of the family, a woman who is the sole support of her family, pregnancy in an unmarried woman, or pregnancy as a result of a criminal act.

Applications for abortion may be submitted by the woman or her doctor to the head of the department of gynecology of any hospital in her district that has a polyclinic. The hospital in turn transmits the request for termination of pregnancy to the district abortion commission. The chairman of the commission is director of the district health institution, and is assisted by the head of the women's department. A medical specialist (chosen according to the medical indications being evaluated) is also a member of the board. An additional member is described as an "experienced, trustworthy and respected woman".

The time limit for a legal abortion for non-medical reasons is 12 weeks.

Before discharge from hospital, a woman who has been aborted must be instructed in birth control techniques by the physician responsible for the operation. She must also be warned that another application for abortion will not be approved until six months have elapsed.

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21. K. Mehland, "Abortion in Eastern Europe" in Abortion in a Changing World, Vol. 1, R.E. Hall, ed, Columbia University Press, 1970, 306, and U.N. Demographic Yearbook, 263.
22. I.D.H.L., 1970, 483-484.

During the period 1957 to 1968, the number of legal abortions in Czechoslovakia has varied from a low of 70,000 to a peak of nearly 100,000 in 1968. The reported rate of legal abortions in Czechoslovakia for 1965 was 34.4 per 100 live births.[23] During 1957-68, the trend in the birth rate has been down, despite some fluctuations, from 18.9 per 1,000 population in 1957 to 14.9 in 1968, and 15.5 in 1969.[24]

Hungary - Major changes in the Hungarian Law governing abortions in 1952 extended the legal provisions from the previously recognized medical reasons to provide for abortion on medical-social and eugenic indications. Since 1956, an amendment has been in force permitting abortion on purely social indications. While the three-member regional board that authorizes abortions is charged with dissuading applications that do not appear justified, the result of the "liberalization" has been that abortion is available to any applicant who persists in maintaining her application despite attempts to dissuade her.

Regional boards are set up, attached to hospitals or clinics. These boards are composed of a physician designated by the chief medical officer of the district, and two additional members: one is the head of the social affairs section of the people's council, while the other is a woman, preferably chosen by the Trade Unions. In the case of an applicant who is already hospitalized, the hospital board may authorize an abortion. The legal time limit for abortion is 12 weeks, except for medical reasons.

The Ministry of Health in Hungary is responsible for making the necessary arrangements to ensure the manufacture and unrestricted distribution of contraceptives at low prices.

As a result of the availability of family planning and relatively high rates of both legal and illegal abortion, the birth rate in Hungary has become the lowest in Eastern Europe, and possibly in all Europe. From a rate of 17.0 per 1,000 population in 1956, the birth rate fell to a low of 12.9 in 1962, but has since risen to 15.0 in 1969.[25] Legal abortion rates have increased from 43 per 100 live births in 1956,[26] to 135.6 per 100 live births in 1965,[27] while other sources report that rate of hospital admissions as a result of illegal abortions amounted to about one-fifth the rate for legal abortions in 1965.[28]

Poland - Like most Eastern European countries, Poland has progressively "liberalized" its statutes regulating abortion. The indications for a legal abortion in 1950 were danger to the health of the pregnant woman or pregnancy as a result of a criminal act. The Law of 1956, which extended the original indications states in its preamble that the intent of the statute is to protect the health of women

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23. The Lancet, February, 1970, 291.
24. U.N. Demographic Yearbook, 1969, 263.
25. U.N. Demographic Yearbook, 1969, 263.
26. World Medical Journal, 1966, 85.
27. The Lancet, February, 1970, 291.
28. C. Tietze, "Abortion in Europe", American Journal of Public Health, Vol. 57, No. 11, November, 1967, 1930.

against the ill effect of illegal abortions. The additional grounds contained in the Act permit an abortion where difficult social or living conditions exist; since 1960, an oral declaration by the woman has been acceptable as sufficient evidence.

The authorization for an abortion is issued by the physician to whom the woman applies. If he refuses to issue a certificate, she has the right of appeal to a three-member board. Abortions for other than medical reasons are legal to the end of the third month of pregnancy.

Under the legislation, the doctor who issues the abortion certificate is required to inform the woman applying for an abortion of the available methods of contraception. He must also provide her with literature on this subject, and issue a prescription for appropriate contraceptives. The Act also requires all the "social establishments" of the health services consulted by women on the interruption of pregnancy and all establishments including out-patient clinics where the operation is performed, to provide education, especially as related to problems of birth control. Physicians in private practice must also be provided with such information. Sales stands for contraceptives must be organized expressly in the establishments which issue authorization for abortions or where the operation is performed.

Following the 1956 legislation introducing social indications for legal abortions, a sharp rise in abortion rates took place, from 2 per 100 live births in 1956 to 42 in 1966.[29] Further reports for the year 1968 indicate approximately 99 per cent of all legal abortions (121,700 in all) were performed for social reasons.[30] There has been a steady decline in the birth rate in Poland from 27.6 per 1,000 population in 1957 to 16.3 in 1969.[31]

Rumania - Contrary to the general trend in Eastern Europe, Rumania provides one of the few examples of a nation that has "liberalized" abortion legislation, only to subsequently reverse its policy by re-enacting more restrictive legislation. The 1957 Decree permitted abortion virtually on request without requiring hospitalization for the operation. However, the Decree of 1966 specified the indications, when certified by a medical board, to be: danger to the life of the mother, serious physical, mental or sensory disorder in the mother, pregnancy in a woman over 45 years, or with at least four children under her care, pregnancy as a result of a criminal act, or for eugenic reasons. At the same time, the Penal Code was amended to make it an offense to induce abortion except under the prescribed conditions.

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29. K. Mehland in "Abortion in a Changing World", Vol. 1, 306.
30. I.D.H.L., 1970, 488.
31. U.N. Demographic Yearbook, 1969, 263.

In Rumania medical boards have been set up where appropriate staff and specialized obstetrics and gynecology units exist. Members of the board, appointed annually, are a chief surgeon or specialist in gynecology and obstetrics, a senior physician, and the secretary of the board who is a medical assistant or medical registrar of the hospital. Deputies are appointed for each of the board members. Other specialists may be consulted as required. In emergencies, the operating physician may by-pass the formal authorization procedures. Abortions may be obtained up to the end of the third month of the pregnancy. In exceptional cases, where the operation is justified by a serious medical condition, termination of pregnancy is permitted up to the sixth month.

According to the Decree of 1966, the woman who has obtained an abortion must receive instruction relating to "the preservation of health and avoidance of undesired conditions" on being discharged from hospital. However, no organized family planning services appear to be operating in Rumania.[32]

Under the "abortion on request" policy permitted by the 1957 Law, the birth rate fell from 25.6 per 1,000 population in 1955 to 14.6 per 1,000 in 1965,[33] rising to 23.3 in 1969.[34] Legal abortions also increased, for example in one year, from 29 per 100 live births in 1958 to 60 per 100 live births in 1959.[35] Data for later years are incomplete. However, other sources indicate the number of abortions reported for 1965 reached a total of 1,115,000,[36] and the following year, more restrictive legislation was introduced.

The U.S.S.R. - The Union of Soviet Socialist Republics has moved from a policy of total prohibition of abortion (1917-1920) to its present position of abortion on demand. The U.S.S.R. was the first European country to revise its abortion laws. Early legislation enacted in 1920 recognized the high rate of illegal abortions and the related high incidence of infection, with an estimated 50 per cent of the women resorting to illegal abortion suffering ill effect. Under this initial provision, legal abortions at the request of the pregnant woman could be performed only in hospital facilities by physicians. Abortion for first pregnancies was strongly discouraged, unless medical grounds existed. However, though a relatively "liberal" policy existed (no doctor could refuse to perform an operation), applicants were discouraged if they had fewer than three children, or had no serious economic, social or medical grounds.

The 1920 revisions led to a sharp increase in abortions and was followed in 1936 by a partial reversal of policy to restrict abortions: the legal grounds specified under the 1936 Decree were danger to the life or health of the mother or eugenic reasons. A policy change in 1955, still in

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32. Family Planning in Five Continents, International Planned Parenthood Federation, London, England, 1970, 36.
33. I.D.H.L., 1970, 488.
34. U.N. Demographic Yearbook, 1969, 263.
35. K. Mehland, "Combatting Illegal Abortion in the Socialist Countries of Europe", World Medical Journal, Vol. 13, No. 3, 1966, 85-87.
36. I.D.H.L., 1970, 489.

effect, brought in new legislation essentially similar to the 1920 Decree. The stated intentions of the 1955 legislation, contained in the preamble, are "the limitation of the harm caused to the health of women by abortions carried out outside of hospitals" and to "give women the possibility of deciding by themselves the question of motherhood".[37] All pregnant women who apply for abortion are entitled to secure an operation for termination of pregnancy unless there are medical contra-indications.

A certificate from a local medical officer is provided after an examination to confirm that indications for abortion exist. The woman is then referred to a hospital for abortion.

The time limit for obtaining a legal abortion is 12 weeks, however, an abortion may not be performed if the woman has had a pregnancy terminated within the past six months.

No statistics are available, but several sources have estimated that there are considerably more abortions in the large urban areas of the U.S.S.R. than there are births.[38] Birth rates have fallen from 25.4 per 1,000 population in 1957 to 17.2 in 1968.[39]

Yugoslavia - Progressively more "liberal" legislation on abortion was enacted by Yugoslavia in 1952, 1960 and 1969. The recognized indications for legal abortion under the current legislation include danger to the life or health of the mother, eugenic grounds, pregnancy due to a criminal offense or social-economic grounds, that is if continuation of the pregnancy would likely cause serious personal, family, financial or other difficulties, either during or after the pregnancy.

In Yugoslavia, requests for termination of pregnancy are heard by a commission set up by health establishments with gynecological services, general hospitals, or maternity hospitals and clinics. Commissions are composed of two physicians (one a specialist in obstetrics and gynecology) and a social worker. Decision is by majority vote. A separate appeal commission of similar composition may be set up. However, when staff numbers are insufficient, the appeal board may consist of the first board, with the addition of two other members one of whom is a specialist in obstetrics and gynecology. Again decision is by majority vote and is final. In urgent cases, the formal channels may be by-passed.

Abortions may be performed up to the end of the third month where indications are social or economic. Abortions performed for medical reasons may take place at any time if there exists a serious danger to the life or health of the woman.

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37. C. Tietze "Abortion in Europe" American Journal of Public Health, Vol. 57, No. 11, November, 1967, 1928.
38. I.D.H.L., 1970, 492.
39. U.N. Demographic Yearbook, 1969, 264.

The Yugoslavian legislation on termination of pregnancy was extended in 1969, to require that Yugoslavian women seeking abortions must be suitably informed regarding methods for prevention of unwanted pregnancies and advised of the health establishments where contraceptive advice is available. Contraceptive information must be provided at all social, education and training establishments and at other organizations concerned with questions of maternal and child welfare. All health establishments must inform pregnant women and their husbands of the methods available for preventing unwanted pregnancies.

Statistics on abortions are not available for recent years. Registered abortions reached 11,800 in 1959,[40] while estimates for subsequent years place the annual number at over 200,000 of which 70 per cent are legal.[41] Legal abortions rose from 13 per 100 live births in 1959 to 37 per 100 in 1964 after the first extension of grounds to include social factors took place in 1960. The birth rate in Yugoslavia has declined less than in other countries of Eastern Europe, from 23.9 per 1,000 population in 1959 to 18.8 in 1969.[42]

Western Europe

The majortiy of the countries in Western Europe share prohibitionist approaches to the question of legal interruption of pregnancy. No legislation permitting abortion exists in either penal or other appropriate legislation in Ireland, Spain and Portugal. In France, the Netherlands and Belgium, legislation is highly restrictive.

France - Under the terms of the Penal Code at the present time, any person who procures or attempts to procure the abortion of a pregnant woman, or one who is thought to be pregnant, is liable to a fine and an additional sentence of one to five years in prison. The pregnant woman so charged is liable to a fine and to imprisonment for six months to two years.

Under Article L 161-1 of the Public Health Code, 1939,[43] death of a foetus brought about in an attempt to save the life of the mother is not illegal. However, in such cases the intent is not to cause an abortion, but rather to save the mother's life. The physician attending the pregnant woman must obtain authority to operate from two medical consultants, one of whom must be selected from the list of experts attached to the Civil Court.

The number of illegal abortions in France has been estimated at between 250,000 and 300,000 per year.[44] However, other sources suggest that the real incidence of illegal abortion is much higher. Birth rates have fallen slowly from 18.4 per 1,000 population in 1957 to 16.7 in 1969.[45]

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40. World Medical Journal, 1966, 85.
41. I.D.H.L., 1970, 493.
42. U.N. Demographic Yearbook, 1969, 262.
43. I.D.H.L., 1970, 474.
44. I.D.H.L., 1970, 473.
45. U.N. Demographic Yearbook, 1969, 262.

Perhaps in part because of the high rate of illegal abortion, signs of a more liberal attitude to family planning and related problems have become evident. Until very recently, publicity in favour of birth control, or the sale of contraceptive products was prohibited.. The 1920 Law prohibiting contraception was strongly enforced in the years immediately preceding its repeal in 1966. The first medically staffed family planning centre was opened in Paris in 1970.

The Netherlands - According to a law of 1886, induction of abortion is a crime against life.[46] In general, a doctor would not be convicted if he could prove that he acted in accordance with rules generally accepted by the medical profession, i.e., to save the mother's life. However, convictions under the law increased gradually to a maximum of 237 in 1948. As a result of the court rulings, even doctors not opposed in principle to therapeutic abortions have been hesitant to perform them.

In December, 1967, the Parliamentary Under-Secretary for Public Health asked the Royal Medical Association of the Netherlands to recommend indications for legal abortions. In September, 1969, the R.M.A.N. committee recommended that the law not be altered at this time. A decision to perform an abortion to save the life of the mother is still the personal responsibility of the doctor, with the majority of the medical profession opposed to legitimization of therapeutic abortion.[47]

Only a few hundred legal abortions have been reported in the Netherlands yearly, but since reporting is not obligatory, the figures must be considered unreliable. Other sources suggest that most women resort to illegal abortions and have estimated that up to 30,000 illegal abortions are obtained yearly. Birth rates have declined very slowly, from 21.2 per 1,000 population in 1957 to 19.2 in 1969.[48]

Scandinavia

A relatively "liberal" policy in regard to legal abortion has gradually evolved in the Scandinavian countries over a 35-year period. Iceland was the first country in the world to enact specific medical-social indications for legal abortion (1935), and also the first of the Scandinavian countries to enact abortion legislation. (The U.S.S.R. legislation of 1920 did not specify legal indications, but permitted abortion at the request of the pregnant woman). The others, Norway, Sweden, Finland, and Denmark, have pursued similar policies, initiated at different periods. Denmark and Sweden enacted their first legislation before World War II, while Finland and Norway followed after the 1950's. In 1970, both Denmark and Finland have extended the legal reasons to include purely social indications for abortion. An express goal of these countries has been to reduce the incidence of illegal abortion.

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46. J. Diepersloot, "Therapeutic Abortion in the Netherlands", World Medical Journal, Vol. 17, No. 4, July-August, 1970, 80.
47. P.E. Treffers, "Abortion in Amsterdam", Population Studies, Vol. 20, No. 3, March, 1967, 295.
48. U.N. Demographic Yearbook, 1969, 262.

Iceland - Iceland was the first country in the world to introduce explicit medical-social indications for abortion,[49] and the first Scandinavian country to enact legislation dealing specifically with abortion.

According to the Law of July 28, 1935, still in force, an abortion may be performed up to the 28th week of pregnancy if continuation of the pregnancy would seriously endanger the woman. Beyond the 8th week of pregnancy, however, the physician may induce an abortion only if there is no other way of averting the danger in question. The legislation specifies that in considering whether a "serious danger" existed which could be considered sufficient reason for a therapeutic abortion after the 8th week, the certifying doctors should consider such factors as the mother's having had several previous deliveries in close succession and the period of time since the last delivery, domestic difficulties resulting from the presence of infants in the household, a difficult financial situation, or the ill health of other persons living in the same household. Any decision to terminate pregnancy must first be approved by two doctors.

Iceland has reported a legal abortion rate which is considerably lower than the rates reported by Norway, Sweden, Denmark and Finland. In addition, the live birth rate is considerably higher. This may in part reflect the fact that despite the apparent similarity of legal indications for abortion in the Scandinavian countries up to 1970, the legal time limit was more restrictive in Iceland. According to 1969 data, the rate of legal abortions in Iceland was 1.3 per 100 live births (numbering 55) while for Sweden the rate was 8.0 per 100 live births.[50] In Iceland, the crude birth rate was 28.7 per 1,000 in 1957, and fell to 20.9 per 1,000 population in 1968.

Denmark - In its first abortion law of 1937, Denmark legalized the established practice of permitting abortion, on medical indications, to avert a "serious risk" to the life or health of the mother. Section 2 of the Law, by extending the definition of "serious risk" to include causes other than disease, implicitly introduced medical-social indications for abortion. Additional indications permitted abortion when the pregnancy resulted from an offense under the Criminal Code, and for eugenic indications, that is the risk of hereditary disease or defect.

Amended legislation in 1956 further extended the concept of medical-social indications to include the living conditions of the woman which might affect her actual or potential state of physical or mental health. "An appreciation shall be made of the circumstances of the case, including the conditions under which the woman will have to live, and consideration shall be given not only to physical and mental illness but also to any actual or potential state of physical infirmity". (Denmark Law No. 177 of June 23, 1956). In

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49. The U.S.S.R. was the first European country to revise its abortion laws. Under the 1920 legislation, no doctor could refuse to perform an abortion on request, though certain applicants were discouraged (See p. 16 - U.S.S.R.).
50. I.D.H.L., Vol. 21, No. 3, 1970, 498.

addition, if a mother was considered to be unfit, either physically or mentally, to give proper care to a child, she could be legally aborted.

In March, 1970, a new Danish Law came into effect which permits a physician to perform an abortion under specified circumstances, without any special authorization. Under the 1970 Law, as before, authorization by a three-member medical committee is required for abortions performed on medical-social indications, including conditions of life, when the pregnancy results from a criminal offense, or where there is a risk of defects in the foetus, or when the woman is considered incapable of giving adequate child care for any reason. No committee authorization is now needed, however, to perform abortions in cases certified by a physician that there is risk of serious injury to the life or physical or mental health of the mother, of pregnancy in a woman of 38 years or older, or where the woman already has at least four children under 18 years at home.

The abortion committee is composed of the director of the maternity aid institution, a specialist in gynecology or surgery and a specialist in psychiatry or a physician with knowledge of social medicine. The committee must give unanimous approval, but an appeal is permitted if an application is refused.

Except in cases where there is a risk to life or of serious injury to physical or mental health, an abortion may not be performed after the 12th week of pregnancy.

The Pregnancy Hygiene Act of 1966 obliges doctors and midwives to offer family planning advice after delivery or abortion. The maternity aid centres where applications for abortion are received provide contraceptive information especially to applicants for abortion.[51]

Despite Denmark's "liberalized" approach, it has been estimated that criminal abortions have continued to occur at rates three to four times higher than the legal rate.[52] Legal abortion rates per 100 live births have fluctuated from 6.9 in 1955 to a low of 4.8 in 1959,[53] later rising again to 6.8 in 1965, and 8.2 in 1968.[54]

Sweden - Before the present law on abortion was enacted by Sweden in 1938, a pregnancy could be terminated only in cases where there was a serious danger to the life or health of the woman. The 1938 Act, which came into effect January 1, 1939, introduced specific indications for abortion: weakness

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51. V. Skalts, Mothers Aid in Denmark, Copenhagen, 1965.
52. I.D.H.L., 1970, 495.
53. C. Tietze and S. Lewit, "Abortion", Scientific American, Vol. 220, No. 1, January, 1969, 25.
54. The Lancet, February, 1970, 291.

in the woman described as the "worn-out mother", a medical-social indication, pregnancy as a result of a criminal offense, and eugenic reasons. In 1946, a further amendment extended the medical-social grounds to include "anticipated weakness" of the woman. In other words, abortion is permitted when, in view of the woman's living conditions and other circumstances, it can be determined that the birth and care of the expected child would seriously undermine her mental or physical health. In addition, government grants were given to establish special abortion counselling centres to give women access to information about special measures of support and provide financial help if needed.

The law was again amended in 1963, as a result of the demonstrated effects of thalidomide. Since then, a therapeutic abortion can be obtained in Sweden if there appears to be a high risk that damage to the foetus has occurred during pregnancy. Further changes are being considered by a commission of inquiry appointed by the Swedish Minister of Justice in 1965 to investigate abortion legislation and practice. The Minister has suggested that any reform in the legislation should attach greater importance to the woman's own attitude.[55] The final report of this committee is expected to be tabled early in 1971.

A woman applying for an abortion in Sweden may attend an abortion counselling centre which conducts a comprehensive medical-social history and examination and recommends on the advisability of an abortion.[56] For most indications, authorization for an abortion can be granted by either the Royal Medical Board or by two doctors in combination, one of whom performs the operation. The social psychiatric committee of the Royal Medical Board deals with the majority of applications for abortion; its decisions must be unanimous. This committee consists of three members, two physicians and one woman, usually a social worker. Decisions are recorded in writing, and are based on the reasons contained in the required medical certificate, social history and other evidence. Although there is no right of appeal, a rejected applicant is entitled to have the Board review her case upon receiving further evidence. There has been a relatively large number of rejected applications reported, 21 per cent in 1964.[57]

The social psychiatry committee alone has power to authorize abortions for genetic reasons or where there is the risk that the child may suffer from severe disease or disability due to foetal injury. In the case of two-doctor authorization, they must report the reasons in writing together with the relevant supporting documents to the Royal Medical Board. The current trend is to favour use of the two-doctor system (amounting to 33% of all approvals in 1967).

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55. Kjell Ohrberg, "Legal Abortion in Sweden", World Medical Journal, Vol. 7, No. 4, July-August, 1970, 85-86, and also I.D.H.L., 1970, 501.
56. Sweden, Swedish Institute for Cultural Relations, Sweden Today: Therapeutic Abortion and the Law in Sweden, Stockholm, 1969, 6.
57. Ibid, 12.

The normal time limit on abortions in Sweden is 20 weeks, although this period may be extended to 24 weeks by special authorization of the National Board of Health and Welfare.

The Family Planning Association was founded in 1934, with government support. The Association runs three centres, trains and educates medical and paramedical personnel and supports additional programs in the field of sex education. Sterilization is legal in Sweden for reasons similar to those permitting abortion on eugenic indications. No reference is made to family planning in the legislation regulating abortion.

In recent years, the legal abortion rates in Sweden have not followed a distinct trend. Legal abortions in 1951 numbered 5.8 per 100 live births,[58] but the rate fell slowly to 3.8 per 100 live births in 1964.[59] Since 1964, abortion rates have risen steadily to reach a figure of 8.0 per 100 live births in 1969.[60] These fluctuations may reflect not only the changes in the Swedish Law and its administration but also the greater ease of obtaining abortions in neighbouring countries, for example, Poland, where no committee authorization has been required.

Norway - Before 1960, the only mention in Norway of abortion was a paragraph in the Penal Code stating that illegal abortion was a criminal act.

The 1960 Law on abortion, which was not implemented until 1964, provides for therapeutic abortions on medical, medico-social, eugenic and humanitarian indications, i.e. pregnancy as a result of a criminal act. In estimating how serious is the danger to the mother's life or health, the legislation states that "living conditions and other circumstances liable to affect her health" must be considered. This broad scope includes social and economic as well as psychological factors in the decision, since any or all could represent a threat to the woman's health.

Authorization for abortion at the woman's request is usually made by a local abortion committee composed of two physicians, one of whom is a physician (not on staff of the hospital where the operation is to be performed) appointed by the provincial medical officer and the physician in charge (or his deputy) of the department of gynecology or surgery in which the operation is to be performed or the physician who is to perform the operation. The operating physician must provide supporting evidence in writing.

In the event of a refusal, the physicians who have made the decision are required to inform the person concerned of the reason in writing and of the possibility of re-examination. An appeal may be made by the woman's physician to the provincial or city medical officer of health who can require the woman to be admitted to another hospital.

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58. U. Borell and L. Engstrom, "Legal Abortion in Sweden", World Medical Journal, Vol. 13, No. 3, May-June, 1966, 74.
59. Therapeutic Abortion and the Law in Sweden, 12.
60. I.D.H.L., 1970, 498.

In general, legal abortions may be performed up to the end of the third month in Norway. Interruption of pregnancy (as in the other Scandinavian countries) is permitted beyond the specified time limits for "special reasons", usually pregnancy in a minor, or medical complications.

Relevant legislation in Norway contains instructions concerning the keeping of records and the filing of regular statistical bulletins. Details of all case histories and related decisions (including refusals) must be kept on files for at least ten years. The reports must be available to the county medical officer of health or to the Directorate of Public Health on request. Copies of all decisions are sent to both the attending physician and to the county medical officer of health.

Annual reports from all hospitals or clinics where such operations are performed are sent to the county medical officer of health. These reports (compiled since 1965) provide detailed information on the number of operations performed, number of refusals, number of cases in each category which were re-examined on appeals, and the number of operations performed for urgent medical reasons, therefore by-passing normal decision making processes. Similar annual reports are forwarded by the county medical officer of health to the Directorate of Public Health.

There is no reference to family planning or contraception in Norwegian legislation dealing with interruption of pregnancy. A nationwide network of health centres for mothers and children, the majority of which are still operated by voluntary agencies, provides free health services. Of some 250 centres taken over by the municipalities ("communes") about 80 offer contraceptive advice. Family planning services are also provided by some hospitals and by some doctors in the public health service and in private practice. There are no special restrictions on the sale of contraceptives, which are available in drug stores.[61] A 1934 law provides access to voluntary sterilization by any person who has "decent cause". There has been an increase in such operations among normal women who wish to be sterilized because they already have as many children as they can manage.

Statistics on therapeutic abortions performed in Norway indicate a rising rate of applications and of approvals. However, regional differences in approval rates indicate interpretational variability among members of the medical profession. In some areas, approval rates ran as high as 90 per cent, while in other areas, only 50 per cent of applications are approved.[62] Abortion rates per live births are not available: applications are steadily increasing from an estimated rate of 6.5 per 1,000 women aged 15-45 in 1965, to approximately 10.7 in 1969. The average rate of approval over this period is estimated to have increased from 73 per cent to 85 per cent. Of those who are refused and reapply,

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61. B. Selid, Woman in Norway, published by the Norwegian Joint Committee on International Social Policy, Oslo, 1970, 87-89.
62. B. Grunfeld and Prof. Axel Strom, "Legal Abortions in Norway", World Medical Journal, Vol. 17, No. 4, July-August, 1970, 87-88.

about two-thirds are successful. However, in assessing these statistics, it is necessary to bear in mind that all refusals are not automatically appealed.

Finland - Prior to 1950, therapeutic abortion in Finland was legal only to save the mother's life. Because of the high rate of illegal abortion, less restrictive legislation was enacted in 1950. Under the new Act, abortion became legal if by reason of a disease, physical defect or weakness, the continuation of pregnancy could constitute a serious danger to the woman's physical or mental health. In determining the extent of this danger, account should be taken of any particularly difficult conditions of the woman's life or other circumstances affecting her health. Additional legal grounds were eugenic reasons or pregnancy due to a criminal offense.

A more liberal abortion law was adopted in March, 1970. The new indications now permit termination of pregnancy where there is a danger (not serious danger as before) to the mother's life or health as a result of the pregnancy. An abortion is also permitted if childbirth and the care of the child would place a considerable strain on the woman, taking into account the living conditions of the applicant and her family. If the woman is under 17 or over 40 years, already has four children, or became pregnant as a result of an act punishable under the Penal Code, an application for an abortion will be approved. A further indication under the 1970 legislation regulating abortion is the apparent incapacity of either parent to provide adequate child care due to disease or infirmity of either parent.

Authorization of the abortion which usually has to be requested by the woman, varies according to the kind of indication: (a) in cases of youthful or elderly mothers or where the mother already has four children, the decision of the physician performing the operation is sufficient; (b) in cases where there are medical and medical-social indications, two physicians must certify the operation; (c) in cases based on eugenic reasons and others based on non-medical indications between the 16th and 20th week of pregnancy, the State Medical Board issues the authority. In cases negatively decided by one or two physicians, as in (a) and (b), an appeal may be made to the State Medical Board.

An ordinance of May, 1970 to implement the new Act, specifies that every woman who has had her pregnancy terminated must, before discharge from hospital, receive contraceptive advice. The Family Planning Association, founded in 1941 with government support, runs six clinics. Contraceptive advice is available from all maternal and child health centres.

Recent figures on the number of legal abortions in Finland are not available. Estimates for the year 1965 place the number of legal abortions at 4,800.[63] Another source quotes a figure of 6.1 per 100 live births, but does not specify the year.[64] The May Ordinance to implement the 1970 legislation requires notification of all abortions within one month of the operation.

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63. I.D.H.L., 1970, 496.
64. The Lancet, February, 1970, 291.

United Kingdom

Under the Offenses Against the Persons Act of 1861, "unlawfully" induced abortion was a felony punishable by life imprisonment in the United Kingdom. However, no definition was given to the term "unlawfully". In 1938, a court ruling on the Rex vs Bourne case recognized the legality of an abortion carried out by a doctor in good faith to preserve the mother's life.

In October, 1967, the United Kingdom Parliament enacted the Abortion Act (which does not apply to Northern Ireland), authorizing abortion if two physicians "are of the opinion formed in good faith that the continuance of the pregnancy would involve risks to the life of the pregnant woman or of injury to the physical or mental health of the pregnant woman or any existing children of her family greater than if the pregnancy were terminated; or if there is a substantial risk that if the child were born, it would suffer from such physical or mental abnormalities as to be seriously handicapped". In coming to a decision in these cases, the doctors concerned may take into account factors in the woman's actual or "reasonably foreseeable environment", that are liable to affect physical or mental health. Though not providing for social indications as such, these provisions do permit a broad evaluation of medical-social indications for abortion.

In those cases in which continuation of pregnancy presents a grave risk to the life or physical or mental health of the mother, approval of two physicians is not required. No time limits are specified in the legislation.

No reference to family planning is made in the British legislation referring to termination of pregnancy. The National Health Services (Family Planning) Act of 1967 places responsibility for provision of family planning services on local authorities. The Act empowers local authorities in England and Wales to make arrangements, with the approval of the Minister of Health, for provision of advice on contraception, the medical examination of persons seeking such advice, and the supplying of contraceptive substances and appliances. By the end of 1969, with one exception, all local authorities were providing a family planning service to some degree.[65]

All pregnancies terminated under the Abortion Act in England and Wales must be reported to the Ministry of Health; there are separate Regulations for Scotland. The rate of abortions have been estimated to have increased from 3.2 per 100 live births in 1966 (prior to implementation of the Abortion Act of 1967, effective April 27, 1968) to 6.8 per 100 in 1969.[66] Total abortions reported (England only) amounted to 21,427 for the last nine months of 1968,[67] and increased considerably to 52,018 in 1969.[68]

65. United Kingdom, Department of Health and Social Security, Annual Report, 1969, 18.
66. The Lancet, February 7, 1970, 287-291.
67. United Kingdom, Department of Health and Social Security, Annual Report of the Chief Medical Officer for the Year 1968, 87.
68. United Kingdom, Department of Health and Social Security, Annual Report, 1969, 282.

Birth rates rose in the United Kingdom from 16.1 per 1,000 population in 1957, to a high of 18.5 in 1964, but then dropped to 16.3 per 1,000 population in 1969.[69]

United States

Because each state is a separate jurisdiction, the existing state laws on abortion range all the way from traditional restrictions to abortion on request. The whole question of the right to and the conditions surrounding abortion is in a state of flux; a number of states have made radical changes in legislation in the last two or three years, and others are actively considering reform measures.

For several decades after the United States constitution was ratified, no legal prohibition against interruption of pregnancy while the foetus was non-viable existed. Because surgery of any kind was hazardous in the mid-1800's, a number of states introduced legislation to combat illegal abortions. Until the mid-1960's abortion was permissible in 46 states and the District of Columbia only to save the life of the mother.

Indicative of a changing climate of opinion, and influenced by the adverse effects of illegal abortions, the American Law Institute drew up a Model Penal Code (1959-62) containing recommended indications for legal abortions. This Code was adopted by the American Medical Association in 1967 to provide suggested guidelines for amended abortion legislation. The recommended indications included danger to the physical or mental health of the woman, pregnancy caused by rape or incest, and the possibility of defects in the foetus.

Several states, including Arkansas, California, Colorado (the pioneer in 1967), Delaware, Georgia, Kansas, Maryland, Mississippi, New Mexico and North Carolina, have used this Code as a guideline, though adapting it to their own purposes. For example, the statute enacted in Oregon (1970) added medical-social grounds to those recommended by the Code. In determining whether or not there is substantial risk that continuance of the pregnancy will greatly impair the physical or mental health of the mother, the physician may take into account "the mother's total environment, actual or reasonably foreseeable".

In 1970, four states - Hawaii, Alaska, New York and Washington enacted statutes to permit abortion on request. The certifying authority in each case is the operating physician.

In New York, a legal abortion may be performed by a licensed physician, "if such act is necessary to preserve the woman's life or within 24 weeks from the commencement of pregnancy". The amendment to the penal law makes no reference to the place where the operation may be performed. However, the State Department of Health has issued guidelines for abortion procedures. Included is the recommendation that abortions should be performed on an out-patient basis up to the 12th week of pregnancy, and thereafter on an in-patient basis only to the end of the 24th week. However, if the abortion is performed for medical reasons (undefined) there are no time restrictions.

69. U.N. Demographic Yearbook, 1969, 263.

In Alaska and Hawaii, the abortion must be performed in a hospital or approved facility, by a licensed physician. Both the states of Alaska and Hawaii permit abortions to be performed on a "non-viable foetus" without further defining legal time intervals. Both states have residency requirements: for Alaska, 30 days, and for Hawaii, 90 days.

More recently, in the State of Washington, similar legislation permitting abortion on request up to the 16th week of pregnancy, received the support of 54 per cent of the votes cast in a public referendum held in November, 1970.[70] The procedure must take place in a licensed hospital or "approved facility" and there is a 90 day residency requirement.

For the remainder, at least one-third of some 32 states currently permitting abortion only when there is a threat to the life of the mother have new bills or legal action pending which could nullify their present laws.

The most significant recent developments in the United States involve court decisions in several states including California (1969 and 1970), Illinois (1971), Wisconsin (1970) and the District of Columbia (1969).[71] All have involved tests of the legality of state abortion legislation which are claimed by the appellants to infringe on certain constitutional rights of the individual as enunciated in the U.S. constitution. No state law can prevail if it is at variance with the federal constitution.

Few statistics are available from the United States but California and Maryland have released some recent figures. California's reported rate of legal abortions for 1969 of six per 100 live births was almost double the 1968 figure of 3.5 per 100 live births.[72] Maryland reported 4.3 abortions per 100 live births for the period 1969-70.[73] According to information received from the New York State Health Department, a total of 123,832 therapeutic abortions were performed in the first eight months of 1970 in New York City and Upper New York State. The estimated total for the full year is 185,700.[74]

The abortion rate per 100 live births in early 1970 varied from 0.5 to 0.7 in Georgia, North Carolina and South Carolina, and from 10.2 to 16.5 in Maryland, California and Oregon.[75]

Canada

Under the Criminal Code of Canada, abortion is an indictable offense except in the circumstances permitting therapeutic abortion legalized under an amendment effective

70. Ruth Roemer "Abortion Law Reform and Repeal: Legislative and Judicial Developments", American Journal of Public Health, Vol. 61, No. 3, March 1971, 500-509.
71. I.D.H.L., 1970, 464.
72. Editorial, Obstetrics and Gynecology, Vol. 36, No. 3, September 1970, 479.
73. Journal of American Medical Association, Vol. 214, No. 2, 1970.
74. Private Communication, New York State Community Aid Association.
75. Editorial, American Journal of Public Health, February, 1971, 215.

August 26, 1969. As set out by Section 18 of the Criminal Law Amendment Act, 1968-69, Section 237 of the Criminal Code exempts from prosecution qualified physicians who, under specific conditions, may be authorized to participate in procuring a miscarriage. Under the terms of the amendments a "qualified medical practitioner" other than a member of a therapeutic abortion committee for any hospital, may procure the "miscarriage of a female person" when, in the opinion of the majortiy of the members of a therapeutic abortion committee of an accredited or approved hospital, "the continuation of the pregnancy of such female person would or would be likely to endanger her life or health".[76]

With this exception, it is an indictable offense carrying a maximum penalty of life imprisonment, to use any means with intent to procure the "miscarriage of a female person".[77] In practice, prior to the 1969 amendment, physicians were able to perform an abortion on substantiated medical grounds without prosecution when it was a condition of saving the woman's life. Moreover, in a number of hospitals, therapeutic abortion committees established before 1969 apparently approved abortions on broader medical and other indications.[78]

A therapeutic abortion committee for any hospital must be composed of "not less than three members, each of whom is a qualified medical practitioner, appointed by the board of that hospital for the purpose of considering and determining questions relating to terminations of pregnancy within that hospital".

As defined by the federal law, a therapeutic abortion committee can be established only by the board of a hospital accredited by the Canadian Council on Hospital Accreditation or one approved for this purpose by a provincial Minister of Health. While the minimum number of members of the committee is three, a hospital board apparently has latitude to appoint more than this number to the one committee or may establish sub-committees. The hospital board may also set forth any specific qualifications regarding committee members. Inasmuch as the provinces exercise jurisdiction over health matters, the provincial hospital and other health authorities may apply certain standards affecting functioning of hospital therapeutic abortion committees and the performance of abortions.

As the law does not require the board of a hospital to set up a therapeutic abortion committee, a considerable number of hospitals have not done so up to the end of 1970. As of August, 1970, only 120 of some 453 accredited hospitals

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76. Chapter 38, Section 18, 17-18 Elizabeth II, 1968-69.
77. There is also a maximum penalty of two years imprisonment for the woman who permits or attempts her own abortion.
78. R.M. Boyce and R.W. Osborn, "Therapeutic Abortion in a Canadian City", Canadian Medical Association Journal, Vol. 103, No. 5, Sept. 12, 1970, 461-465.

in Canada had set up therapeutic abortion committees; a further 23 "approved" hospitals had also established such committees. The requirement that at least four physicians be involved may prevent the establishment of therapeutic abortion committees in smaller communities, rural areas and the Territories.

In the absence of any prescribed grounds for abortion, each therapeutic abortion committee must follow its own judgment in interpreting the meaning of "endangering ... life or health". As a result, considerable variation is believed to exist among committees in the kind of supporting evidence that is requested.

Before carrying out the operation, the medical practitioner who is to perform the operation must obtain a certificate in writing from a therapeutic abortion committee which has met to review the case, and has recorded its majority opinion that "the continuation of the pregnancy ... would, or would be likely to, endanger (the woman's) life or health".

While the 1969 Criminal Code provision for abortion does not require any reporting procedures, it does authorize the provincial Minister of Health to obtain "such other information relating to the procuring of the miscarriage as he may require".

In co-operation with the provinces and the individual hospitals concerned, Statistics Canada has set up a system for reporting basic statistics on legal abortions. Statistics Canada reported a total of 11,200 abortions performed during 1970, the first full calendar year after implementation of the Criminal Law Amendment Act, 1969. This amounts to an annual abortion rate of 3 per 100 live births.[79]

Live birth rates in Canada have declined steadily from 28.2 per 1,000 population in 1957 to 17.6 in 1968 and 1969. The provisional birth rate for 1970 is 17.3 per 1,000 population.[80]

Before the repeal of the relevant section of the Criminal Code in 1969, the dissemination of birth control information and contraceptive devices in Canada was illegal. Though the anti-contraceptives legislation was generally disregarded by individuals, the possibility of prosecution hindered the family planning activities of public health departments, voluntary agencies, hospitals and physicians.

Following the 1969 amendments to the Criminal Code, regulation of contraceptives including advertising and distribution, is controlled under the federal Food and Drugs Act. Advertising of contraceptives not requiring a medical prescription is monitored by the Food and Drug Directorate.

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79. Public Health Section, Health and Welfare Division, Dominion Bureau of Statistics, Special Statement-Therapeutic Abortions in Canada, 1970, Ottawa, April, 1971.
80. D.B.S. Vital Statistics, 1968. Live Births by Sex and Rates, Canada and Provinces, 1971, and private communication, D.B.S.

Birth control pills and intra-uterine devices, both requiring medical prescriptions, may be advertised only in medical journals.

In 1970, the Minister of National Health and Welfare announced a federal family planning program of research, information and training in co-operation with the provinces, to extend family planning information and services to all Canadians who wish to use them. The Family Planning Federation of Canada operates some 19 branch offices in the large cities. An increasing number of local and district public health services have also established family planning clinics.

Summary

Abortion continues to be a strongly debated issue throughout the world, one of the reasons being the continuing prevalence of illegal abortion in most countries where it has been legalized under certain conditions. In other countries, the termination of pregnancy is prohibited under any circumstances as a criminal act. The World Medical Association has involved itself in the debate, and is attempting to frame a policy statement acceptable to a majority of its members.

The statistical data reported by the countries examined in this review indicate that, when abortion is legalized and the grounds are extended, the abortion rates per 100 live births have increased sharply. To date, it can be inferred that, despite the extension of improved methods of family planning in most countries during the same period, the use of these measures has not been adequate to prevent widespread recourse to abortion. The official statistics on abortion also do not provide any concrete information on the extent to which illegal abortion still flourishes; most authorities agree that, where legal controls on abortion exist, criminal or illegal abortions continue at a significant rate. However, maternal deaths associated with abortion have greatly declined, due not only to the safeguards surrounding therapeutic abortion but also to the more effective treatments against infection.

No ideal solution to the regulation of abortion would appear to have been found by any one country. The problem of unwanted pregnancy results from an especially unpredictable area of human behaviour that legislation alone cannot be expected to regulate or resolve. In the process of developing legislation, various conflicting interests and factors are involved besides the overt medical and other health factors, and may include religious, cultural, political, and economic considerations, and also population pressures.

May, 1971,
Research and Statistics Directorate.

TABLE 1. LEGAL ABORTION IN SELECTED COUNTRIES, APPROVED INDICATIONS AND OTHER CONDITIONS, 1970

Scope of indications	Country or State	Indications							Other Conditions		
		Absolute Prohibition	Medical				Pregnancy due to Criminal Offense(2)	Socio-Economic(3)	Residency requirement	Time limits(4)	Certifying Authority(5)
			To preserve mother's life	To preserve mother's health	Hereditary foetal defects	Other foetal defects(1)					
Absolute Prohibition	Ireland	x	-	-	-	-	-	-	-	-	-
	Spain	x	-	-	-	-	-	-	-	-	-
	Portugal	x	-	-	-	-	-	-	-	-	-
	The Netherlands	x(6)	-	-	-	-	-	-	-	-	-
	Pennsylvania	x(7)	-	-	-	-	-	-	-	-	-
To Preserve Mother's Life	France	-	x	-	-	-	-	-	-	-	2 M.D.'s as consultants one from Civil Court Lists
	India	-	x	-	-	-	-	-	-	-	-
	31 U.S.States(8)	-	x	-	-	-	Mississippi only, rape.	-	-	-	-
To Preserve Mother's Life or Health	Canada	-	x	x	-	-	-	-	-	-	Committee - at least 3 M.D.'s
	Alabama	-	x	x	-	-	-	-	-	-	-
	Massachusetts	-	x	x	-	-	-	-	-	-	Judgement of fellow M.D.'s
To Preserve Mother's Life or Health & Foetal Defects & Pregnancy due to Criminal Offense	Arkansas	-	x	x	x	x	x	-	4 mos.	4 mos.	3 unrelated M.D.'s not in joint practice
	California	-	x	x	-	-	x	-	-	20 wks.	Board - 3 M.D.'s(unanimous)
	Colorado	-	x	x	x	x	x	-	accept few non-residents	16 wks.	Board - 3 M.D.'s(unanimous)
	Delaware	-	x	x	x	x	x	-	4 mos	20 wks.	2 M.D.'s
	Georgia	-	x	x	x	x	x	-	"bona fide resident"	-	3 M.D.'s
	Kansas	-	x	x	x	x	x	-	-	-	3 M.D.'s
	Maryland	-	x	x	x	x	x	-	-	26 wks.	Hospital review authority
	New Mexico	-	x	x	x	x	x	-	-	16 wks.	Hospital Board - 2 M.D.'s
	North Carolina	-	x	x	x	x	x	-	4 mos.	4 mos.	3 M.D.'s not in joint practice
	South Carolina	-	x	x	x	x	x	-	90 days	-	3 M.D.'s & husband - parents if under 18 years
	Virginia	-	x	x	(with husband's approval)		x	-	120 days	-	Board - 3 M.D.'s

TABLE 1. Continued

Scope of indications	Country or State	Indications							Other Conditions		
		Absolute Pro-hibition	Medical: To preserve mother's life	Medical: To preserve mother's health	Medical: Hereditary foetal defects	Medical: Other foetal defects(1)	Pregnancy due to Criminal Offense(2)	Socio-Economic(3)	Residency requirement	Time limits(4)	Certifying Authority(5)
To Preserve Mother's Life or Health & Foetal Defects & Pregnancy due to Criminal Offense & Socio-Economic	Denmark	-	x	x	x	x	x	Conditions of life, 38 years+, care of 4+ children.	-	12 wks.	2 M.D.'s & director of medical centre(5)
	Finland	-	x	x	x	x	x	Conditions of life, 40 years+, under 17, 4+ children.	-	16 wks.	2 M.D.'s, one operates(5)
	Iceland	-	x	x	-	-	-	Social conditions affecting health.	-	28 wks.	2 M.D.'s
	Norway	-	x	x	x	x	x	Conditions of life, woman retarded or mentally ill.	-	3rd month	2 M.D.'s
	Sweden	-	x	x	x	x	x	Conditions of life, woman mentally ill.	-	20 wks.	Royal Med. Board - 2 M.D.'s & social worker, or 2 M.D.'s
	Great Britain	-	x	x	x	x	-	Include actual or reasonably foreseeable environment.	-	-	2 M.D.'s, one operates
	Oregon	-	x	x	x	x	x	Include actual or reasonably foreseeable environment.	"Resident"	150 days	2 M.D.'s, unrelated, not in joint practice
	Japan	-	x	x	x	x	x	x	-		Operating M.D.
	Czechoslovakia	-	x	x	x	-	x	Woman 45+, under 16, or at least 3 children.	-	12 wks.	3 M.D.'s, plus "respected woman"(5)
	Poland	-	x	x	-	-	x	x	-	3rd month	1 M.D. (who cannot operate)
	Rumania	-	x	x	x	-	x	Woman 45+, or with 4+ children.	-	3rd month	3 M.D.'s
	Yugoslavia	-	x	x	x	-	x	x	-	3rd month	2 M.D.'s, social worker
On Request	Alaska	Abortion legal if performed by licensed M.D. in a licensed hospital or approved facility.							30 days	"non-viable foetus"	Operating M.D.
	Hawaii	Abortion legal if performed by licensed M.D. in a licensed hospital or approved facility.							90 days	"non-viable foetus"	Operating M.D.
	New York	Abortion legal if performed by licensed M.D.							-	24 wks.	Operating M.D.
	Washington	Abortion legal if performed by licensed M.D. in a licensed hospital or approved facility.							90 days	16 wks.	Operating M.D.
	Bulgaria	Granted if woman insists, except (unless medically indicated) to childless married woman.							-	10 wks.	3 M.D.'s, possibly a social worker(5)
	Hungary	Applicant must appear before board - granted if she insists.							-	12 wks.	3 member board (one M.D.)
	U.S.S.R.	Approved unless medical contraindications (specified in Act).							-	12 wks.	M.D.

TABLE 1. Continued

Sources: International Digest of Health Legislation, professional journals.

(1) Defects in foetus resulting from disease or other injury during pregnancy.

(2) Sometimes referred to as humanitarian or ethical indications; may include rape, incest, or statutory rape, but not necessarily all three.

(3) Socio-economic indications, widely defined as "conditions of life" may include present environment, or reasonably foreseeable environment, responsibility for a specified number of children, or other factors affecting the child, rearing capacity of the mother, such as advanced age (defined in years) or immaturity, mental illness or retardation, or chronic illness in a family member.

(4) Specified time limits apply where non-medical indications are in effect, and do not usually apply to strictly medical indications.

(5) Exceptions are usually made for emergency abortions; where legislation permits a legal abortion on certain socio-economic grounds such as the mother's age or a number of existing children, authorization is usually simplified (one doctor may certify).

(6) A law of 1886, under which induction of abortion is a crime against life, is still in effect, with the majority of the medical profession opposed to legitimization of therapeutic abortion. However, if a doctor is able to prove he acted to save the mother's life, he may not be convicted.

(7) "Unlawful" abortion is a felony - no further definition in the legislation.

(8) Arizona, Connecticut, Florida, Idaho, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Michigan, Missouri, Montana, Nebraska, New Hampshire, New Jersey, North Dakota, Ohio, Oklahoma, Rhode Island, South Dakota, Tennessee, Texas, Utah, Vermont, West Virginia, Wisconsin, Wyoming, to save the life of the mother only; Mississippi adds rape.

Research and Statistics Directorate,
The Department of National Health and Welfare,
February, 1971.

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